



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date:	08/14/14	Bill No:	<a href="#">Assembly Bill 2031</a>
Tax Program:	Lumber Product Assessment	Author:	Dahle
Sponsor:	BOE	Code Sections:	PRC 4629.5
Related Bills:	SB 861 (Budget Comm.)	Effective Date:	01/01/15

## BILL SUMMARY

This Board of Equalization (BOE) sponsored bill establishes a threshold of annual sales of \$25,000 in qualifying lumber products, under which a retailer is not required to collect and report the lumber product assessment (LPA).

### Summary of Amendments

Since the previous analysis, this bill was amended to incorporate amendments to PRC 4629.5 by SB 861 (Ch. 35, Stats. 2014) which, in part, codified the amount of retailer reimbursement as determined and adopted by the BOE in California Code of Regulations 2000 and 2001.

## ANALYSIS

### CURRENT LAW

Beginning in January 1, 2013, the Legislature enacted Assembly Bill 1492,<sup>1</sup> imposing a 1% assessment on a person who purchases lumber products and engineered wood products to be collected by the retailer at the time of sale.

Currently, the statute does not provide any type of exclusion for otherwise qualified businesses that have few to no sales of wood products subject to the LPA. These businesses must file zero or small dollar returns.

Beginning October 23, 2012, the BOE adopted emergency regulations to determine the retailer reimbursement amount.<sup>2</sup> After additional revisions and consideration, the BOE adopted Regulation 2001 on September 10, 2013. Regulation 2001 allows a retailer required to collect the LPA to retain \$485 per location, in addition to the \$250 allowed by Regulation 2000, as reimbursement for startup costs. The total authorized retailer reimbursement amount is \$735. Regulation 2001 was effective January 1, 2014.<sup>3</sup>

### PROPOSED LAW

This bill amends PRC Section 4629.5 to define a “retailer” as one who has sales of qualified lumber products and engineered wood products of \$25,000 or more during the previous calendar year. This bill also requires retailers that are not required to collect the LPA, to notify purchasers of their responsibility to report the LPA to the BOE.

<sup>1</sup> Article 9.5 (commencing with Section 4629) Chapter 8 of Part 2 of Division 4 of the Public Resources Code (PRC) [Assembly Bill 1492, Chapter 289, Statutes 2012]

<sup>2</sup> Regulation 2000 of Chapter 4.1 (Lumber Products Assessment), of Division 2 of Title 18 of the California Code of Regulations.

<sup>3</sup> Regulation 2001 of Chapter 4.1 (Lumber Products Assessment), of Division 2 of Title 18 of the California Code of Regulations.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position*

**BACKGROUND**

All retailers that may make sales of lumber products or engineered wood products are required to register with the BOE and report the LPA on those sales, regardless of the amount of sales. During calendar year 2013, approximately 29,600 businesses accounts, with approximately 39,600 retail locations were registered to collect the LPA. To date, over 33,000 of these retail locations have their LPA account closed by the BOE because they were filing zero returns and/or were not making sales of wood products subject to the LPA.

Of the remaining registered accounts, approximately 995 retail locations reported LPA sales of less than \$25,000 for calendar year 2013.

**COMMENTS**

1. **Sponsor and Purpose.** The BOE is sponsoring this bill to ease the burden for qualifying, small sellers of wood products by eliminating the expense of collecting and reporting the LPA.
2. **The August 14, 2014 amendments** incorporate amendments to PRC 4629.5 by SB 861. SB 861, in part, codified the amount of retailer reimbursement as determined and adopted by the BOE in California Code of Regulations 2000 and 2001. **The May 6, 2014 amendments** (1) increased the small seller threshold from \$5,000 to \$25,000 in annual sales of qualified wood products and (2) required sellers of qualified wood products to notify purchasers of their responsibility to report the LPA directly to the BOE. **The April 21, 2014 amendments** (1) removed the bad debt deduction provisions from the bill and (2) reduced the small seller threshold from \$25,000 to \$5,000 in annual sales of qualified wood products
3. **Product Tracking.** If the small seller threshold provision is enacted, retailers must still continue to track their sales of qualifying wood products and engineered wood products to determine if they fall under the threshold.
4. **Zero Returns.** The BOE deregistered accounts that reported zero sales of lumber products subject to the LPA during calendar year 2013.

**COST ESTIMATE**

While the BOE has not completed a detailed cost analysis of this bill, any costs savings realized by having fewer retailers is likely to be offset by additional costs associated with administering a small seller threshold.

**REVENUE ESTIMATE**

Based on LPA returns for 2013, a BOE revenue loss of approximately \$38,000 could be expected due to the small seller allowance. However, the LPA is assessed on the purchaser, with a requirement for the retailer to collect and report the assessment to the BOE. Accordingly, the purchaser would still be required to report the LPA to the BOE even if the retailer is not required to collect and report the amounts.

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